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SUBJECT: PORTUGUESE LEGAL ADVISOR SHOWS SUPPORT FOR U.S.
LEGAL INITIATIVES

Classified By: Dana M. Brown, Pol-Econ Officer, Embassy Lisbon
Reason 1.4 (b) and (d)

¶1. (C) Summary: On the margins of the Secretary's visit to Lisbon on September 4, Legal Advisor Bellinger met with Portuguese MFA Legal Advisor Luis Tavares and covered several bilateral areas of interest, including transfer of Guantanamo detainees, Kosovo recognition, and Serbia's UN petition for an ICJ opinion on Kosovo independence. Tavares spoke frankly about the challenges facing both countries in multilateral issues and was generally supportive of the U.S. approach on the legal issues. End summary.

¶2. (C) Detainees: Bellinger raised this issue with Tavares because Portuguese FM Amado has been helpful within the EU on Guantanamo issues in the past. While the Portuguese government does not support Guantanamo operations, it does acknowledge that the post 9/11 challenges include mechanisms that have not traditionally existed in international law. The Portuguese also support our efforts to close down Guantanamo by relocating detainees. (Note: In principle only) Portugal has not yet accepted detainees. End note.) Tavares suggested that the USG press FM Amado directly to encourage him to turn the EU's focus to Guantanamo. He noted that many member states had been distracted by the Irish vote on the Treaty of Lisbon and moved away from discussing Guantanamo and the way forward. He told Bellinger that the trans-Atlantic component of the EU foreign ministers' meeting (Gymnich) would specifically address Guantanamo. Bellinger urged Tavares to consider pressing for resettlement now, rather than waiting for the new U.S. administration. Both agreed that it would be a good topic of conversation for the Secretary's breakfast with FM Amado on September 5.

¶3. (C) Kosovo Recognition: Tavares said Portugal's delay on Kosovo recognition came solely from President Cavaco Silva and his advisors. In particular, Tavares claimed that Cavaco Silva's legal advisor, who is a constitutional law specialist, sees issues in black-and-white and fails to grasp that grey areas are common in international law. When asked whether Cavaco Silva would sign the final recognition, he claimed that PM Socrates (who has the final say) would not go against President Cavaco Silva because he did not want to risk alienating the Portuguese Commander in Chief. (Comment: PM Socrates also alluded to Cavaco Silva's role in driving the timing of recognition in a separate meeting with the Secretary. septel)

¶4. (C) International Court of Justice (ICJ) and Kosovo: The GOP has told Serbia that it would not back its request for an ICJ opinion on Kosovo's legal right to declare independence. Tavares claimed that an ICJ opinion would "open a can of worms and we are not interested." Bellinger proposed a joint strategy to quash the measure and Tavares suggested several other partner nations who would be willing to oppose Serbia's request. In particular, Tavares recommended that Lusophone

partner Angola, which has a non-contiguous region Cabinda, be recruited to muster NAM member votes against the measure. Tavares also noted that Spain and other non-recognizing European partners would be wary in principle of seeking an ICJ opinion on the issue of independence and would be particularly helpful in opposing the Serbian motion.

¶5. (C) Chain of Command: Legal Advisor Luis Tavares reports to the Portuguese MFA's Secretary General Vasco Valente and not to the Foreign Minister directly. Tavares noted that it can be frustrating since his immediate boss is not a specialist in international law, so the Minister often skips over the DG for legal decisions.

¶6. (C) Comment: Tavares' blunt identification of Cavaco Silva as the reason for the GOP's slowness on Kosovo recognition reconfirmed what others had glossed over in other meetings. Tavares seemed confident that Socrates would not make a move without Cavaco Silva's approval, something that had not been suggested prior to this meeting. End comment.

¶7. (U) This message has been cleared by Legal Advisor John Bellinger.
STEPHENSON